Presidential Documents

Proclamation 6035 of October 3, 1989

National Health Care Food Service Week, 1989

By the President of the United States of America

A Proclamation

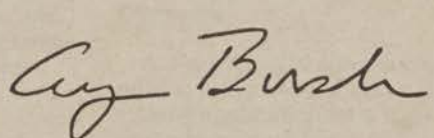
Sound nutrition is important to all Americans, but for the ill it is an essential component in the process of healing and recovery. The dedicated men and women who work in the health care food and nutrition departments of our Nation's hospitals and nursing facilities thus play a very important role in patient care.

Working in concert with other health care professionals, these individuals provide a variety of patient care services, from nutrition instruction to the preparation and delivery of appetizing and nutritious meals. This week, we salute America's health care food services personnel—administrators, dieticians, dietary assistants, menu planners, chefs, production workers, and volunteers—for their professionalism and hard work.

In recognition of the vital contribution made by health care food service professionals to the well-being of the American people, the Congress, by Senate Joint Resolution 81, has designated the week of October 1 through October 7, 1989, as "National Health Care Food Service Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 1, 1989, as National Health Care Food Service Week, and I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



[FR Doc. 89-23731
Filed 10-3-89; 3:32 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 54, No. 192
Thursday, October 5, 1989

DEPARTMENT OF AGRICULTURE

Commodity Credit Corp.

7 CFR Part 1435

Price Support Loan Program for 1986 Through 1990 Crops of Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This final rule adopts without change, the interim rule published in the **Federal Register** on October 29, 1986 (51 FR 39507). The interim rule amended the regulations at 7 CFR part 1435 to implement section 201 of the Agricultural Act of 1949 ("1949 Act") as amended by the Food Security Act of 1985 for the 1986–1990 crops of sugar. The amended provisions principally relate to the price support loan program. Under this program, the Commodity Credit Corporation (CCC) will support prices to domestic producers of the 1986 through 1990 crops of sugarcane and sugar beets through nonrecourse loans made by CCC to sugar processors.

EFFECTIVE DATE: October 5, 1989.

FOR FURTHER INFORMATION CONTACT: Lynda Moore, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447–4229. The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available from Thomas W. Fink, Cotton, Grain and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447-8701.

SUPPLEMENTARY INFORMATION:

Rulemaking Matters

This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "major" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action in not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

The title and number of the Federal Assistance Program to which this final rule applies is: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

The reporting and record keeping requirements of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Interim Rule

An interim rule was published in the **Federal Register** at 51 FR 39507 on October 29, 1986, which amended the Price Support Loan Program for 1986–1990 Crops of Sugar Beets and Sugarcane. The interim rule amended the regulations at 7 CFR part 1435 to set forth the provisions applicable to the price support loan program for the 1986 through 1990 crops of sugarcane and sugar beets. This program is mandated by the Agricultural Act of 1949, as amended by the Food Security Act of 1985. Under the program, the CCC will support prices to domestic producers of the 1986 through 1990 crops of sugarcane and sugar beets through nonrecourse loans from CCC to sugar processors.

The amended provisions incorporated the financial assurance requirements that provide CCC with some protection in the event the processor does not pay producers the maximum benefits under the sugar price support program due to bankruptcy or insolvency of the processor. Comments of the interim rule were invited.

General Summary of Comments

The public was given until December 29, 1986, to comment on the interim rule. The Department has considered all comments received in developing this final rule. The Department received comments with respect to the interim rule from seven respondents, including sugar producer's associations, and producer/processor cooperative, sugar beet refiners, and an individual.

All comments received are on file and available for public inspection in Room 3627—South Building, 14th and Independence Avenue, SW., Washington, DC 20013.

The following is a summary of comments received and actions taken:

Comments on Major Program Provisions

I. Bonding for Protection of Sugar Producers

A. *Provisions of Interim Rule.* The interim rule provided that a processor making application for a sugar loan must post a bond payable to CCC, or provide other financial assurance as agreed upon by CCC, to protect CCC in the event the processor does not pay producers the maximum benefits under the sugar price support program. CCC must obtain such assurance of payment by the processor of maximum program benefits as a result of the statutory requirements contained in section 401(e)(2) of the 1949 Act. This section provides that CCC will pay to sugar producers, under certain circumstances, the maximum benefits from the sugar price support program, less benefits previously received by the producers.

The bond or other assurance must be in an amount equal to the applicable crop year regional minimum price support level for sugar beets or sugarcane times ten percent of the total annual quantity of sugar beets or sugarcane delivered by producers to the processor in the previous year or, in the event such quantity cannot be determined, the quantity estimated by CCC that will be delivered to the processor for that crop.

B. *Comments.* Four comments were received regarding the bond or other financial assurance requirements. Three of the respondents are sugar processors. One of the respondents is a sugar beet association.

Two respondents expressed their satisfaction with the actions taken by the Department of Agriculture in seeking ways that processors could meet the financial assurance requirements. One respondent, a cooperative sugar processor, requested to be exempt from the bonding requirement based on its agreement with growers. One respondent made the following suggestions: (1) that financial assurances should be considered satisfied, without posting additional security, if loan proceeds are segregated and used solely to pay producers and; (2) any security requirement should be reduced proportionately as payments are made to growers.

C. *Discussion and conclusion.* The cooperative sugar processor seeking exemption from the financial assurance requirements based on its agreement with growers stated that it makes payment to its members/shareholders/growers on a break-even concept. The respondent also stated that according to the agreement, the grower waives and abandons any rights or claims for damages in case of bankruptcy or destruction.

After careful review of the growers contract, it was determined that CCC would remain obligated to make payments to growers in the event of insolvency of the cooperative sugar processor. Consequently, an exemption of financial assurance requirements is not justified.

The respondent suggesting that financial assurances should be considered satisfied if loan proceeds are segregated and used solely to pay producers, submitted the following statements: The respondent understands the purpose of providing financial assurance is to assure CCC that growers receive the benefits of the price support program.

The respondent further stated that if producers are the sole recipients of the loan proceeds, no further security is needed. The same respondent suggested that any security requirement should be reduced proportionately as payments are made to growers.

Section 401(e) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, requires CCC to pay sugar producers, under certain circumstances such as bankruptcy or insolvency, the maximum benefits from the sugar price support program, less benefits previously received by the producers. Therefore, CCC's exposure begins when a processor receives the first loan disbursement.

The respondent's comment that further security is unnecessary if loan proceeds are segregated and used solely to pay producers is incorrect. CCC's exposure is not limited to the amount of loan proceeds disbursed to a processor. Once a sugar loan is disbursed to a processor, CCC's exposure is to pay the maximum benefits to every eligible producer for every ton of sugar beets or sugarcane delivered to the processor.

Similarly, CCC's total exposure CCC's exposure is to pay the total less amounts paid by the processor. Reducing the financial assurance amount as repayments are made by the processor to producers would reduce the limited protection that the financial assurance requirements provide CCC.

After careful consideration of the comments submitted, it has been concluded that the bonding provisions of the interim rule should be adopted in the final rule without change.

II. Maturity of Loans

A. *Provisions of Interim Rule.* The interim rule provided that loans will mature on the last day of the sixth month following the month in which the loan is disbursed, but in no event later than September 30 following disbursement of the loan.

B. *Comments.* Two comments were received with respect to the maturity of loans. Both respondents recommended changing the loan maturity date to the end of the ninth month following disbursement. The respondents stated that six month loans made during the fall season mature well in advance of traditional sales, requiring processors to obtain supplemental financing. Both respondents identified sugar as the only commodity for which the term of CCC loans is six months.

C. *Discussion and conclusion.* As set forth in the interim rule, a loan maturity date on the last day of the sixth month in which the loan is disbursed, but no later than September 30 following disbursement, appears to be in the best interest of CCC and the trade. The final date of September 30 is mandated by statute. If a nine-month loan period were offered, all loans would mature between July 31 and September 30. Experience with other commodities suggests that having all loans mature within a short time frame usually has a depressant effect upon the market price of the commodity. Accordingly, the basic provisions of the interim rule have been retained.

In order to accommodate unusual situations, the final rule provides that the processor and CCC may agree upon an earlier or later maturity date (but in no event later than September 30 following disbursement of the loan) if such maturity date will not impair the effectiveness of the price support program, as determined by CCC.

III. Refined Beet Sugar Loan Rate

A. *Provisions of the Interim Rule.* The Food Security Act of 1985 requires the Secretary to support the price of domestically grown sugarcane at such a level as the Secretary determines appropriate, but not less than 18 cents per pound, and to support the price of domestically grown sugar beets at a level which is fair and reasonable in relation to the loan level for sugarcane.

B. *Comment.* One respondent, a sugarcane producer's association, objected to the methodology used in determining the loan rate for refined beet sugar. The commenter stated that the refined beet sugar loan rate is the key factor in determining the market price for refined sugar. The commenter suggested that the loan rate for refined beet sugar was too low in relation to the Market Stabilization Price.

C. *Discussion and conclusion.* The 1987, 1988, and 1989 loan rates for refined beet sugar reflect the value of the sugar based on the relationship between the weighted average of grower returns for sugar beets and the weighted average of grower returns for sugarcane, expressed on a cents per pound basis for refined beet sugar and raw cane sugar, for the immediately preceding 10-year period. After adjustment to reflect the proper price relationship, the estimated 1987 and 1988 sugar beet crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of the sugar) are added to make up the basic loan rate for

refined beet sugar. This is the same method that was used for the 1986 crop.

The respondent's comment objected to the resulting beet sugar loan rate, but the comment did not identify the methodology as not meeting the statutory requirement that such loan rate be fair and reasonable in relation to the cane sugar loan rate. Consequently, after careful consideration of the comment received, it has been determined that the net return methodology used should be retained to determine the beet sugar loan rate.

IV. Location Differentials

A. *Provisions of Interim Rule.* The interim rule established separate location loan rate differentials for each sugarcane and sugar beet production area. Location loan rate differentials were established based on the estimated average freight costs between the processor and such processor's normal market. Under this method, the loan rate for each area or region was established by adding to or subtracting from the U.S. average loan rate for raw cane sugar and refined beet sugar the difference between a particular area's freight cost and the weighted average freight costs for all areas. The most current transportation data available to the Department was used in formulating the location differentials.

B. *Comments.* One respondent commented that there is no authority in the applicable legislation for location differentials in the sugar loan rates.

C. *Discussion and conclusion.* In accordance with Section 403 of the 1949 Act, CCC may make adjustments in loan rates based on the location of the stored commodity. Such location differentials are common to most of the price support programs conducted by CCC. Location differentials are generally based upon transportation costs and are essential in order to prevent distortions of ordinary market relationships as the result of the price support program.

After careful consideration of the comment received, it has been concluded that the provisions of the interim rule should be retained.

V. Extension of Comment Period

A. *Comment.* One commenter requested that the comment period be extended for at least six months.

B. *Discussion and conclusion.* The interim rule stated that comments must be received on or before December 29, 1986 in order to be assured of consideration. No additional comments were received since December 29, 1986, and most aspects of the new program provisions have been implemented smoothly. Consequently, it has been concluded that an extension of the comment period was not needed.

VI. Elimination of Support Program

A. *Comment.* One commenter recommended that the Department do away with all sugar controls and quotas as they exist now.

B. *Discussion and conclusion.* Since the sugar loan program is mandated by statute further discussion of this comment is not required.

List of Subjects in 7 CFR Part 1435.

Sugar, Price support program, Loan programs.

Final Rule

Accordingly, the interim rule published at 51 FR 39507, which amended 7 CFR Part 1435, is hereby adopted as a final rule without change.

Signed at Washington, DC, on September 28, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 89-23450 Filed 10-4-89; 8:45 am]

BILLING CODE 3410-05-M

Food Safety and Inspection Service

9 CFR Parts 327 and 381

[Docket No. 88-001F]

RIN 0583-AA91

Definition of Terms—"Import (Imported)" and "Offer(ed) for Entry" and "Entry (Entered)"

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations and the poultry products inspection regulations by defining the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)" to clarify what these terms are intended to mean and to clarify at what point meat and poultry products offered for entry into the United States are no longer considered to be imported products and are deemed and treated as domestic articles under the law. Once product offered for entry has been reinspected by FSIS inspectors and the official mark of inspection has been applied, FSIS considers that such product has been "entered" into the United States and, therefore, is the regulatory equivalent of domestic product. At that point, such product is subject to the laws and regulations of the United States as applied to domestic product, particularly with respect to the disposal of product found to be adulterated.

The definitions of "offer(ed) for entry" and "entry (entered)" are different for products imported from Canada under the interim rule recently published in the **Federal Register** (54 FR 273). The interim rule exempted such products from the requirement that they be marked with the official mark of inspection and provided for a "streamlined" inspection procedure.

This action is a result of litigation which indicated the need for clarification of terms with respect to USDA's interpretation of provisions of the Federal Meat Inspection Act and the regulations promulgated thereunder concerning at what point FSIS considers imported products to be domestic products.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3473.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

FSIS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The rule clarifies, through the addition of definitions, when meat and poultry products are considered to be "imported' and when such products offered for entry are considered to be entered and, therefore, are treated as domestic products. Such domestic products are subject to the laws and regulations of the United States applicable to such products, particularly with respect to the disposal of products found to be adulterated. Clarification of these terms will not result in any change in current procedures. Domestic producers or

domestic importers will not be affected by this rule.

Background

Section 20 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 620) and section 17 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibit the importation of meat or poultry products into the United States if such products are adulterated or misbranded and unless they comply with all the inspection, building construction standards, and all other provisions of the Acts and regulations as are applied to domestic products. Section 20 of the FMIA and section 17 of the PPIA also provide that once imported products are entered into the United States, such products are considered to be and should be treated as domestic products subject to the provisions of the FMIA and PPIA and other food related statutes. FSIS is defining the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)" to clarify at what point product offered for entry into the United States is considered to be domestic product. The term "import (imported)" is considered to be that point when the product is brought within the territorial limits of the United States whether that arrival is accomplished by land, air, or water. For product other than from Canada, the term "offered for entry" is considered to be that point at which the importer offers the product for reinspection to FSIS, that is, the point at which imported product from eligible countries has been presented to FSIS for reinspection. The term "entry (entered)" is considered to be the point at which product from eligible countries, other than Canada, imported into the United States and subsequently offered for entry receives reinspection and is marked with the official mark of inspection.

FSIS is providing separate definitions for "offer(ed) for entry" and "entry (entered)" for Canadian product as a result of the interim rule which was published on January 5, 1989, (54 FR 273) that exempted imported Canadian meat and poultry products from the requirement that such product be marked with the official mark of inspection. As part of the interim rule, FSIS also instituted new "streamlined" inspection procedures for Canadian product exported to the United States. Under these procedures, inspectors at participating Canadian establishments are authorized to request reinspection assignments and, if deemed necessary, to draw samples for reinspection by Program import inspectors. Therefore, FSIS is providing a separate definition for "offer(ed) for entry" as it applies to participating Canadian establishments. The term is defined as that point at which an official of the Canadian meat inspection system contacts the Import Field Office for an inspection assignment. Products from nonparticipating establishments will receive an inspection assignment upon arrival at an import inspection establishment. For Canadian product produced in nonparticipating establishments, "offer(ed) for entry" is defined as that point at which the importer presents the product to the Program for reinspection.

FSIS has also instituted a new sampling program for all Canadian product, based on statistically based random sampling plans developed by FSIS, whereby some product is subject to reinspection by FSIS and some product is not. (For additional information on procedures used for the reinspection of Canadian product, refer to the interim rule published on January 5, 1989 (54 FR 273).) Therefore, because of the new "streamlined" inspection procedures, the new sampling plans, and the exemption of Canadian product from application of the official mark, FSIS is providing separate definitions for "entry (entered)" of Canadian product. For Canadian product not subject to reinspection, FSIS is defining "enter (entered)" as when the containers or the products themselves if not in containers are marked with the Canadian export stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customshouse in accordance with 19 CFR part 123.

For Canadian product subject to reinspection, FSIS is defining "enter (entered)" as when the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as "Inspected and Passed" by the import inspector.

The FMIA and PPIA and the regulations promulgated thereunder require that product found to be adulterated on the day it is reinspected be refused entry, and such product may be reexported (9 CFR 327.13(a)(2) and 381.202(a)(2)). In cases where meat product is only misbranded (e.g., labeling or certificates are missing, incorrect, or incomplete), such product may be brought into compliance by the importer, under FSIS's supervision (9 CFR 327.13(a)(4)).

Before a foreign country can export product to the United States it must be granted eligibility to do so. FSIS has established procedures by which foreign countries desiring to export meat and/or poultry products to the United States may become eligible to do so. These regulations are contained in part 327 of the Federal meat inspection regulations and part 381, subpart T, of the poultry products inspection regulations (9 CFR part 327 and part 381, subpart T). These regulations provide that a meat and/or poultry product inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, must ensure compliance of such establishments and their meat and/or poultry products with requirements at least equal to all the provisions of the FMIA and the PPIA and the regulations that are applied to official establishments in the United States and their meat and poultry products. In addition, for approval to export meat and/or poultry products to the United States, the requirement that reliance can be placed on certificates required under the regulations from authorities in the country must also be met.

Before eligibility is granted, a complete evaluation of the country's inspection system is made by FSIS personnel. This evaluation consists of two processes—a document review and on-site reviews of system operations. The document review process involves a review of the laws, regulations, directives and other written materials used by the country to operate its inspection program. FSIS assists the country in organizing this material by providing questionnaires in five risk areas: contamination, disease, processing, residues, and compliance/economic fraud. FSIS then evaluates the information to assure that the critical points in each of the risk areas are being addressed satisfactorily with respect to standards, activities, resources and enforcement. This process usually involves several exchanges of information. In many cases, the country seeking recognition must revise its regulations or publish special directives to achieve equivalency with United States requirements.

If the document review proves to be satisfactory, on-site reviews are scheduled using a multi-disciplinary team to evaluate all aspects of the country's program including laboratories and individual establishments within the country. On-site reviews are designed to further explore areas determined to require more detailed evaluation and are also undertaken to allow the FSIS review team to observe the system in its daily operation.

After a review of all the documents submitted by the foreign country and an evaluation of the findings of the on-site reviews, the Administrator makes a determination concerning the ability of the foreign country to assure, with respect to certified establishments within the foreign country preparing product for export to the United States, compliance with requirements at least equal to those applicable to official establishments within the United States which prepare meat and/or poultry products, and that reliance can be placed upon certificates required under the FMIA and the PPIA from authorities of the foreign country.

This judgment by the Administrator—that the foreign country's inspection system is considered to be "at least equal to" the inspection system of the United States—is the primary means used by FSIS to assure that product intended for export to the United States will be "at least equal to" all the requirements applied to domestic product. Once eligibility is granted, FSIS conducts ongoing reviews of the system in operation to assure that procedures and standards continue to meet United States requirements.

FSIS relies on its initial determination of a foreign country's eligibility coupled with ongoing reviews to provide assurance that products offered for entry from such eligible country are, and continue to be, wholesome, unadulterated and properly labeled and packaged. As a further check on the effectiveness of the foreign inspection system, all product offerd for entry into the United States, except that from Canada as discussed above, is subject to basic reinspection by FSIS import inspectors. This reinspection consists of a review of the product containers to check for damage or other problems received in transit to the United States, and a review of product labeling, health certificates and FSIS inspection forms to assure that the documentation is correct and complete.

Such imported products offered for entry also receive a form of secondary level reinspection depending on the type of product. Secondary reinspection consists of examinations for production defects such as the presence of hair, grease, hide, dirt and similar substances in frozen or fresh bulk product; net weight checks, condition of container examinations, and incubation tests for canned products; laboratory analyses for food chemistry (fat, water, and nitrite levels) for processed products; and, analyses for chemical residues in fresh, frozen and canned product. Some of these test results are available immediately; others, such as incubation results or chemical residue analyses, are not available for several days. In cases where the product has passed basic resinspection, even though secondary inspection results are not available, the product is stamped with the official mark of inspection and is entered into the United States and is considered to be domestic product. At this point, FSIS assumes that the secondary test results will confirm that the product meets United States requirements.

When secondary test results are received by FSIS and the results indicate violations of United States requirements, especially in chemical residue analyses which would render the product adulterated under United States laws, FSIS institutes actions to locate the product and, if appropriate, to destroy it in accordance with requirements for product produced in the United States. Domestic product which is found to be adulterated, as defined in the Acts and under § 301.2(c) of the meat inspection regulations (9 CFR 301.2(c)) and § 381.1(b)(4) of the poultry products inspection regulations (9 CFR 381.1(b)(4)), must be destroyed for human food purposes in accordance with the provisions of part 314 of the Federal meat inspection regulations (9 CFR part 314) and part 381, subpart L, of the poultry products inspection regulations (9 CFR part 381, subpart L).

Proposed Rule

On June 6, 1989, FSIS published a proposed rule (54 FR 24181) as a result of litigation concerning the seizure and condemnation of product offered for entry that had been reinspected, marked and allowed entry into the United States. The importers had asserted that the product should be permitted to be exported because the statutes and regulations are not clear as to when imported products offered for entry are to be deemed and treated as domestic product. To preclude any future questions on that point, FSIS concluded that clarifying changes needed to be made in the meat and poulty products inspection regulations. Clarification of terms would assure that all interested parties understand what is meant by use of the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)" with respect to FSIS's jurisdiction over imported meat and poultry products. FSIS did not receive any comments in response to the proposal.

Final Rule

Therefore, FSIS is amending section 327.1 of the Federal meat inspection regulations (9 CFR 327.1) and section 381.195 of the poultry products inspection regulations (9 CFR 381.195) to add definitions for the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)." FSIS defines "import (imported)" as "to bring within the territorial limits of the United States whether that arrival is accomplished by land, water, or air." For imported products other than from Canada, FSIS defines "offer(ed) for entry" as "that point at which the importer presents the imported product to the Program for reinspection;" and defines "entry (entered)" as "that point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection."

For Canadian product produced in Canadian establishments participating in the "streamlined" inspection procedures, FSIS defines "offer(ed) for entery" as "that point at which an official of the Canadian meat inspection system contacts the Import Field Office for an inspection assignment.

For Canadian product produced in nonparticipating establishments, FSIS defines "offer(ed) for entry" as "the point at which the importer presents the imported product to the Program for reinspection."

For Canadian product not subject to reinspection, FSIS defines "enter (entered)" as "when the containers or the products themselves if not in containers are marked with the Canadian export stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customshouse in accordance with 19 CFR part 123."

For Canadian product subject to reinspection, FSIS defines "enter (entered)" as "when the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as Inspected and Passed by the import inspector."

FSIS is also amending several sections of Parts 327 and 381 with respect to the terms "import (imported)," "offer(ed) for entry," and "entry (entered)" as defined in this rule. These amendments make consistent the use of the above terms as they are used in the affected sections. These amendments are editorial only and make no changes to the content of those sections.

For the reasons stated in the preamble, FSIS is amending Part 327 of the Federal meat inspection regulations and Part 381, Subpart T, of the poultry products inspection regulations as set forth below:

List of Subjects in 9 CFR

Part 327

Imported products, Meat inspection.

Part 381

Imported products, Poultry products inspection.

PART 327—IMPORTED PRODUCTS

1. The authority citation for Part 327 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*

2. Section 327.1 is amended by revising the section heading, by designating the existing text as paragraph (b), and by adding a new paragraph (a) to read as follows:

§ 327.1 Definitions; application of provisions.

(a) When used in this part, the following terms shall be construed to mean:

(1) *Import (imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) For product from eligible countries other than Canada:

(i) *Offer(ed) for entry.* The point at which the importer presents the imported product to the Program for reinspection.

(ii) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the offical mark of inspection in accordance with § 327.26 of this subchapter.

(3) For product from Canada:

(i) *Offer(ed) for entry* from establishments participating in the "streamlined" inspection procedures. The point at which an official of the Canadian meat inspection system contacts the Import Field Office for an inspection assignment.

(ii) *Offer(ed) for entry* from nonparticipating establishments. The point at which the importer presents the imported product to the Program for reinspection.

(iii) *Entry (entered)* for product not subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian port stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customhouse in accordance with 19 CFR Part 123.

(iv) *Entry (entered)* for product subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as "Inspected and Passed" by the import inspector.

3. Paragraph (b) of § 327.2 is revised to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

* * * * *

(b) It has been determined that product of cattle, sheep, swine, and goats from the following countries covered by foreign meat inspection certificates of the country of origin as required by § 327.4, except fresh, chilled, or frozen or other product ineligible for importation into the United States from countries in which the contagious and communicable disease of rinderpest or of foot-and-mouth disease or of African swine fever exists as provided in Part 94 of this title, is eligible under the regulations in this subchapter for entry into the United States after inspection and marking as required by the applicable provisions of this part.

* * * * *

4. The introductory text of paragraph (b) and paragraph (d) of § 327.3 are revised to read as follows:

§ 327.3 No product to be imported without compliance with applicable regulations.

* * * * *

(b) No fresh or cured meat or meat trimmings in pieces too small to permit adequate inspection shall be imported into the United States. Individual pieces or trimmings must not be smaller than 2-inch cubes or pieces comparable in size. Except as provided in paragraph (c) of this section, processed meat food products prepared with meat pieces smaller than 2-inch cubes or pieces comparable in size shall not be imported except under the following conditions:

* * *

* * * * *

(d) Further, no carcasses or parts of carcasses of livestock offered for entry from which naturally associated tissues such as the peritoneum, pleura, body lymph glands, or the portal glands of the liver have been removed, shall be imported into the United States.

5. The heading of § 327.5 and the first sentence of paragraph (a) are revised to read as follows:

§ 327.5 Importer to make application for inspection of products for entry; information required; "streamlined" inspection procedures for Canadian product.

(a) Except for importers of Canadian products, each importer shall apply for inspection of any product offered for entry by contacting the Import Field Office covering the location where import inspection will take place. * * *

* * * * *

6. Paragraph (a)(1) of § 327.6 is revised to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(a)(1) Except as provided in §§ 327.5(d)(1), 327.16 and 327.17, all products offered for entry from any foreign country shall be reinspected by a Program inspector before they shall be allowed entry into the United States.

* * * * *

7. Paragraph (b) of § 327.10 is revised to read as follows:

§ 327.10 Samples; inspection of consignments; refusal of entry; marking.

* * * * *

(b) Except for product offered for entry from Canada, the outside containers of all products offered for entry from any foreign country and accompanied with a foreign inspection certificate as required by this part, which, upon reinspection by import inspectors are found not to be adulterated or misbranded and are otherwise eligible for entry into the United States under this part, or the products themselves if not in containers, shall be marked with the official inspection legend prescribed in § 327.26 of this part. Except for Canadian product, all other products so marked, in compliance with this part, shall be entered into the United States, insofar as such entry is regulated under the Act.

* * * * *

8. Paragraph (c) of § 327.15 is revised to read as follows:

§ 327.15 Outside containers of foreign products; marking and labeling; application of official inspection legend.

* * * * *

(c) Except for product offered for entry from Canada, all outside containers of products which have been inspected and passed in accordance with this part shall be marked by a Program import inspector or under a Program import inspector's supervision with the official import meat inspection mark prescribed in § 327.26.

9. Section 327.16 is revised to read as follows:

§ 327.16 Small importations for importer's own consumption; requirements.

Any product in a quantity of 50 pounds or less which was purchased by the importer outside the United States

for his/her own consumption, is eligible to be imported into the United States from any country without compliance with the provisions in other sections of this part but subject to applicable requirements under other laws, including the regulations in Part 94 of this title. However, Program employees may inspect any product imported under this section to determine whether it is within the class eligible to be imported under this paragraph.

10. Paragraphs (a) and (b) of § 327.18 and its heading are revised to read as follows:

§ 327.18 Products offered for entry and entered to be handled and transported as domestic; exception.

(a) All products, after entry into the United States, shall be deemed and treated as domestic products and shall be subject to the applicable provisions of the Act and the regulations in this subchapter and the applicable requirements under the Federal Food, Drug and Cosmetic Act, except that products imported under § 327.16 are required to comply only with the requirements of that Act and § 327.16 of this subchapter.

(b) Products entered in accordance with this part may, subject to the provisions of part 318 of this subchapter, be taken into official establishments and be mixed with or added to any product in such establishments which has been inspected and passed therein.

* * * * *

11. Section 327.20 is revised to read as follows:

§ 327.20 Importation of foreign inedible fats.

No inedible grease, inedible tallow, or other inedible rendered fat shall be imported into the United States unless it has been first denatured as prescribed in § 327.25 of this part and the containers marked as prescribed by § 316.15 of this subchapter or unless it is identified and handled as prescribed by § 325.11 (b) or (c) of this subchapter.

12. Section 327.22 is revised to read as follows:

§ 327.22 Official seals for transportation of products.

The official mark for use in sealing cars, trucks, other means of conveyance, or containers in which any product offered for entry is conveyed shall be the inscription and a serial number hereinafter shown below,[1] and the import meat seal approved by the Administrator for applying such mark shall be an official device for purposes of the Act. Such device shall be attached to the means of conveyance only by a Program employee, or a Customs officer or his/her designee, and he/she shall also affix thereto a "Warning Tag" (Form MP–408–3).

13. The heading of § 327.23 and the introductory text of paragraph (b) are revised to read as follows:

§ 327.23 Compliance procedure for cured pork products offered for entry.

* * * * *

(b) *Normal monitoring procedures.* Except for product imported from Canada, the Department shall collect sample(s) of cured pork product on a random basis from lots offered for entry at the Port of Entry and, after analyzing the sample for fat and indigenous protein content, calculate the PFF percentage. The product shall not be held pending laboratory results during the monitoring phase. The PFF percentage for each sample shall be considered along with the cumulative results of prior samples to assess the effectiveness of a country's overall compliance program and to determine the course of action for subsequent lots of product. * * *

14. Paragraph (b) of § 327.26 is revised to read as follows:

§ 327.26 Official import inspection marks and devices.

* * * * *

(b) Except for product offered for entry from Canada, when import inspections are performed in official establishments the official inspection legend to be applied to meat and meat food products offered for entry shall be the appropriate form as specified in §§ 312.2 and 312.3 of this subchapter.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

15. The authority citation for part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.;* 76 Stat. 663 (7 U.S.C. 450 *et seq.*)

16. Section 381.195 is amended by revising the heading, by designating the current text of paragraphs (a) and (b) as paragraphs (b) and (c) respectively, and by adding a new paragraph (a) to read as follows:

§ 381.195 Definitions; requirements for importation into the United States.

(a) When used in this part, the following terms shall be construed to mean:

(1) *Import (Imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) For product from eligible countries other than Canada:

(i) *Offer(ed) for entry.* The point at which the importer presents the imported product to the Program for reinspection.

(ii) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection in accordance with § 327.26 of this part.

(3) For product from Canada:

(i) *Offer(ed) for entry* from establishments participating in the "streamlined" inspection procedures. The point at which an official of the Canadian inspection system contacts the Import Field Office for an inspection assignment.

(ii) *Offer(ed) for entry* from nonparticipating establishments. The point at which the importer presents the imported product to the Program for reinspection.

(iii) *Entry (entered)* for product not subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian export stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customshouse in accordance with 19 CFR part 123.

(iv) *Entry (entered)* for product subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as "Inspected and Passed" by the import inspector.

17. The introductory text of paragraph (b) of § 381.196 is revised to read as follows:

§ 381.196 Eligibility of foreign countries for importation of poultry products into the United States.

* * * * *

(b) It has been determined that poultry products from the following countries, covered by foreign poultry inspection certificates of the country of origin as required by § 381.197, are eligible under the regulations in this subpart for entry into the United States, after inspection and marking as required by the applicable provisions of this subpart: * * *

[1] The term "F–351587" is given as an example only. The serial number of the specific seal will be shown in lieu thereof.

18. The heading of § 381.198 and first sentence of paragraph (a) are revised to read as follows:

§ 381.198 Importer to make application for inspection of poultry products offered for entry.

(a) Each person who wishes to offer for entry any slaughtered poultry or other poultry product shall make application for inspection to the import supervisor of the import field office at the port where the poultry product is to be offered for entry, or to the Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, as long as possible in advance of the anticipated arrival of each consignment of such product, except in the case of poultry product exempted from inspection by §§ 381.207 or 381.209. * * *

19. Paragraphs (a)(1) and (b) and the heading of § 381.199 are revised to read as follows:

§ 381.199 Inspection of poultry products offered for entry.

(a)(1) Except as provided in §§ 381.198(b)(1) and 381.209 of this part, and paragraph (c) of this section, all slaughtered poultry and poultry products offered for entry from any foreign country shall be reinspected by a Program import inspector before they shall be allowed entry into the United States.

* * * * *

(b) Inspectors may take, without cost to the United States, from each consignment of poultry products offered for entry, such samples of the products as are deemed necessary to determine the eligibility of the products for entry into the commerce of the United States.

* * * * *

20. The first sentence of paragraph (c) and the heading of § 381.200 are revised to read as follows:

§ 381.200 Poultry products offered for entry, retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities and assistance; official seal.

* * * * *

(c) Means of conveyance or outside containers in which any poultry product intended to be offered for entry is moved, prior to inspection from the port or wharf where first unloaded in the United States, shall be sealed with the official seals of the Department of Agriculture as prescribed in paragraph (h) of this section or otherwise identified as provided in this paragraph unless already sealed with customs or consular seals in accordance with the customs regulations. * * *

* * * * *

21. The heading of § 381.201 is revised to read as follows:

§ 381.201 Means of conveyance and equipment used in handling poultry products offered for entry to be maintained in sanitary condition.

22. The heading and text of § 381.203 are revised to read as follows:

§ 381.203 Products offered for entry; charges for storage, cartage, and labor with respect to products which are refused entry.

All charges for storage, cartage, and labor with respect to any product offered for entry which is refused entry pursuant to the regulations shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any other products offered for entry thereafter by or for such owner or consignee.

23. Paragraph (a) of § 381.204 is revised to read as follows:

§ 381.204 Marking of poultry products offered for entry; official import inspection marks and devices.

(a) Except for products offered for entry from Canada, poultry products which upon reinspection are found to be acceptable for entry into the United States shall be marked with the official inspection legend shown in paragraph (b) of this section. Such inspection legend shall be placed upon such products only after completion of official import inspection and product acceptance.

* * * * *

24. The heading and paragraphs (a) and (c) of § 381.205 are revised to read as follows:

§ 381.205 Labeling of immediate containers of poultry products offered for entry.

(a) Immediate containers of poultry products imported into the United States shall bear a label printed in English showing in accordance with Subpart N of this part all information required by that section (except that the inspection mark and establishment number assigned by the foreign poultry inspection system and certified to the Inspection Service shall be shown instead of the official dressed poultry identification mark or other official inspection legend, and official establishment number); and in addition the label shall show the name of the country of origin preceded by the words "Product of," which statement shall appear immediately under the name of the product.

* * * * *

(c) Labels for immediate containers of imported poultry products shall be submitted for approval in sketch form to the Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, USDA, Washington, DC 20250. * * *

25. The heading and the first sentence of § 381.206 are revised to read as follows:

§ 381.206 Labeling of shipping containers of poultry products offered for entry.

Shipping containers of imported poultry products are required to bear in a prominent and legible manner the name of the product, the name of the country of origin, the foreign inspection system establishment number of the establishment in which the product was processed, and the inspection mark of the country of origin. * * *

26. Section 381.207 up to the proviso is revised to read as follows:

§ 381.207 Small importations for consignee's personal use, display, or laboratory analysis.

Any poultry product (other than one which is forbidden entry by other Federal law or regulation) from any country in quantities of less than 50 pounds net weight, exclusively for the personal use of the consignee, or for display or laboratory analysis by the consignee, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food, and which is not adulterated and contains no substance not permitted by the Act or regulations, may be imported into the United States without a foreign inspection certificate, and such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part, except as provided in § 381.199(c): * * *

27. The heading and paragraphs (a) and (b) of § 381.208 are revised to read as follows:

§ 381.208 Poultry products offered for entry and entered to be handled and transported as domestic; entry into official establishments; transportation.

(a) All poultry products, after entry into the United States in compliance with this subpart, shall be deemed and treated and, except as provided in § 381.207, shall be handled and transported as domestic products, and shall be subject to the applicable provisions of this part and to the provisions of the Poultry Products

Inspection Act and the Federal Food, Drug, and Cosmetic Act.

(b) Poultry products entered in accordance with this subpart may, subject to the provisions of the regulations, be taken into official establishments and be mixed with or added to poultry products that are inspected and passed or exempted from inspection in such establishments.

* * * * *

Done in Washington, DC, on October 2, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 89-23633 Filed 10-4-89; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ANE-24; Amdt. 39-6344]

Airworthiness Directives; Pratt & Whitney (PW) JT3D-3B and JT3D-7 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires that certain PW JT3D-3B and JT3D-7 engines returned to service by Jet Power, Inc. (JPI) (FAA Repair Station No. 705-70) be removed from service within 30 calendar days after the effective date of this AD.

An FAA audit of JPI revealed unacceptable engine repair practices which may result in a reduced level of safety for engines approved for return to service by this repair station. This AD is needed to prevent the development of an unsafe condition such as disk rupture, engine fire, loss of engine power, engine instability, or other circumstances inhibiting normal engine operation.

EFFECTIVE DATE: October 31, 1989.

Comments for inclusion in the docket must be received on or before November 30, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-ANE-24, 12 New England Executive Park, Burlington, Massachusetts 01803; or delivered in duplicate to Room 311 at the above address.

Comments must be marked: Docket No. 89-ANE-24.

Comments may be inspected at the above location in Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. This information may be examined at the Federal Aviation Administration, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: The FAA has determined that certain engines approved by JPI for return to service may be unairworthy due to inadequate repair and overhaul practices.

The FAA audit of JPI, conducted during June 21-24, 1989, and August 7-14, 1989, revealed numerous irregularities. Specifically, this repair station had approved for return to service an engine in which a second stage turbine disk containing seven cracks was installed. This disk had been inspected and documented as cracked by the previous owner/operator. In another instance, an engine was approved for release to service with a stage four compressor disk which had been inspected by its previous owner/operator, and found to have exceeded dimensional limits. Several other engines were approved for release to service with negative exhaust gas temperature (EGT) margin. A review of JPI records also indicated inadequate recordkeeping on engine life-limited rotating components, and errors in the documentation of cyclic utilization for a certain turbine disk. Also, in numerous cases where used engine components were obtained from JPI's stock, neither the origins for these components were established, nor was the airworthiness of the components determinable through review of the component records prior to approval for return to service.

Additionally, this repair station has acquired engines without sufficient maintenance recordkeeping to determine the types of previous engine maintenance programs or whether the engine had been involved in a previous accident. Without such knowledge of prior history, a complete engine overhaul, component removal from service, or other appropriate action may be necessary.

This AD requires that these engines be removed from service within 30 calendar days after the effective date of this AD. To return the engines to service, (a) an engine overhaul must be accomplished and, if applicable, the special inspections required on engine components removed from engines previously involved in an accident be accomplished, or (b) submit the repair/overhaul records identified in the body of this AD to the FAA for review and obtain an FAA approval to return the engine to service. Upon review of the relevant data submitted to the FAA, a determination of relaxed or additional requirements on certain engines prior to return to service may be possible.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 calendar days.

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above.

All communications received on or before the closing date for comments will be considered by the FAA. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available both before and after the closing date for comments in Room 311, at the Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance